

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING )  
PHARMACY, INC. PRODUCTS LIABILITY ) MDL No. 02419  
LITIGATION ) Docket No. 1:13-md-2419-RWZ  
\_\_\_\_\_  
\_\_\_\_\_  
This document relates to: )  
\_\_\_\_\_  
All of the cases against the Box Hill Defendants<sup>1</sup> )

**JOINT MOTION TO MODIFY COMMON EXPERT DISCOVERY DEADLINES**

Defendants, Box Hill Surgery Center, LLC, Ritu T. Bhambhani, M.D., Ritu T. Bhambhani, M.D., LLC, (“Box Hill Defendants”), and the Box Hill Plaintiffs, through counsel, jointly move the Court to modify the common expert discovery deadline, and in support state as follows:

1. On August 11, 2016, the Court issued an amended scheduling order,<sup>2</sup> which set, among other things, a deadline for the completion of common issue expert depositions by December 1, 2016.<sup>3</sup>

2. Plaintiffs identified experts and provided their common issue expert reports by September 15, 2016 as required. Defendants also complied with the scheduling order and identified experts and provided common issue expert reports by October 17, 2016.

3. Although both parties provided dates for their experts’ availability for depositions, scheduling conflicts existed for both parties and the experts themselves. The Thanksgiving holiday did not help. When it became clear that the parties would likely be unable to meet the December

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<sup>1</sup> This pleading applies to the following cases: Handy v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14019-RWZ; Armetta v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14022-RWZ; Torbeck v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14023-RWZ; Kashi v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14026-RWZ; Bowman v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14028-RWZ; Dreisch v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14029-RWZ; Davis v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14033-RWZ; Farthing v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14036-RWZ

<sup>2</sup> Dkt. 3042.

<sup>3</sup> *Id.*

1, 2016 deadline, Defendants' counsel informed the Court at the November 3, 2016 MDL Status Conference that the parties may need to seek an extension.

4. Since then, the parties were still unable to find available dates that worked for everyone prior to December 1, 2016. The parties worked to get the experts scheduled outside of the deadline before returning to the Court with a proposed amended scheduling order. Plaintiffs' experts' depositions have been scheduled in December and January, concluding January 19, 2017. Some of Defendants' experts' depositions have also been confirmed beginning after that date and going into the end of February. Defendants continue to work towards getting the rest confirmed by next week's MDL Status Conference and Discovery Hearing on December 8, 2017.

5. As such, the parties now jointly seek an extension of the common expert deposition deadline. The parties share the Court's desire to move these cases forward. The parties respectfully request that they be permitted to confer on a proposed amended scheduling order and present it to the Court on or before the December 8, 2016 Status Conference and Discovery Hearing once all of the experts have been confirmed.

WHEREFORE, the parties jointly move to modify the current scheduling order [Dkt. 3042], and seek permission to present a proposed amended scheduling order at or before the December 8, 2016 Status Conference and Discovery Hearing.

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Dated: November 30, 2016

Respectfully submitted,

/s/ Jay Miller

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#### **CERTIFICATE OF SERVICE**

I, Gregory K. Kirby, hereby certify that a copy of the foregoing Joint Motion to Modify the Scheduling Order, filed through the CM/ECF system, will be accessible to those attorneys who are registered with the Court's electronic filing system and Notice of Electronic filing (NEF), including the attorneys representing the plaintiffs in the individual cases, and will be sent to these parties by operation of the CM/ECF system.

Dated: November 30, 2016

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